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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,762	01/04/2001	Jimmy Randolph Lewis	29488/36815	3783

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MARSHALL, GERSTEIN & BORUN LLP  
233 S. WACKER DRIVE, SUITE 6300  
SEARS TOWER  
CHICAGO, IL 60606

EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
3653	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/754,762

**Applicant(s)**

LEWIS ET AL.

**Examiner**

Jeffrey A. Shapiro

**Art Unit**

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7, 8, 10-19 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7, 8, 10-19 and 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 8, 10-19 and 21-28 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Exhibits C and D, referred to in Applicants' 131 affidavit filed 9/5/06, provides evidence establishing public use/sale. Exhibit C concerns "Pick-To-Bucket" criteria. Exhibit D concerns a proposal for a "Pick-To-Bucket" order processing system, presented to Walgreen's Corp. Applicants' affidavit mentions on p.3, section 10, 2<sup>nd</sup> sentence, that Exhibit C was submitted before Exhibit D to SI Handling Systems. Exhibit D has a date of June 30, 1999, which is more than one year before the Applicants' filing date of 1/4/2001. Exhibit C therefore was submitted before this date.

Applicants also state regarding Exhibit C that a "pick-to-light system" is used to direct an operator to place items into a hopper indicated by a light. Exhibit D describes directing a stock worker to transfer items from bins to containers based on prescribed pick operations (see "system description", p. 2), at least one number display, a container display, and a first indicator. A Computer is described at p.4, and p.5, referred to as an "SI-BRTS" controller. Note that p.4 illustrates a computer with display. P. 5 also describes order data the SI-BRTS controller receives. This includes

Art Unit: 3653

information such as "tote box number", address 1-4, box flag, and source. All of these pieces of information can be construed as directional information. A second location indicator comprising a direction display can therefore be construed as the computer display of the SI-BRTS controller.

Regarding proof of sale, note the table of contents refers to sections 6-8, redacted, which concern "pricing", "schedule" and "standard terms and conditions". Further, a cover letter is included dated June 30, 1999 from Sean McGonagle to Pete Marri which states "[w]e are pleased to offer this proposal to design, build and commission a Pick-to-Bucket Order Selection System for Walgreens."

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 3653

4. Claims 7, 8, 10-19 and 21-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Teicher et al (US 6,205,396 B1).

As described in **Claims 7, 13, 18, 23 and 24**, Teicher discloses at least one number display (22D, 24D, and 110) and a container display (24L). See also figure 2b. Teicher discloses a computer (11, 30). See also col. 2, lines 3, 4. Regarding a subsequent pick, note that once the current pick operation is completed, the operator enters information regarding service completion, and the next or subsequent pick is then shown. See col. 3, line 60-col. 4, line 2. Also note that a "current pick" may contain several items to be picked from the same bin, in which case a subsequent pick would embody one of the several items from the same bin. Teicher further discloses displaying a direction indicator (22A, 22L, 22R), as illustrated in figures 1 and 2, which provides an operator with visual information in the form of an arrow that indicates the route to take to perform the next pick task.

As described in **Claims 11, 14, 22 and 25**, Teicher discloses the operator entering an "operation complete" information to indicate to the system that the current pick operation is complete. See again, col. 3, line 60-col. 4, line 2. The computer (20) then transmits new information. See col. 6, lines 20-30.

Regarding **Claims 10, 15, 21 and 26**, Teicher discloses a multi-purpose exception button in the form of operator interface (32) that enables the operator to indicate to the computer that a quantity of items is less than the number required. See col. 3, lines 60-64.

Regarding **Claims 8 and 19**, Teicher discloses a centrally located indicator and display (15), as illustrated in figures 1 and 2a.

As described in **Claim 12, 16 and 27**, bin indicators (16) are associated with particular storage bins. See figures 1 and 2b.

Regarding **Claims 17 and 28**, Teicher's computer directs operators to various locations based on various criterion, including order received, orders with problems that need to be reworked, etc. See col. 6, lines 20-41. Note also that Teicher's system runs on orders received, and if a certain items are popular, operators will be directed to the locations of the most requested items by default.

#### ***Response to Amendment***

5. The affidavit filed on 9/5/06 under 37 CFR 1.131 is sufficient to overcome the Takizawa reference (JP 2000-118641).

#### ***Response to Arguments***

6. Applicant's arguments with respect to Claims 7, 8, 10-19 and 21-28 have been considered but are moot in view of the new ground(s) of rejection. See above discussion.

#### ***Conclusion***

7. Applicant's submission of an Affidavit under 37 CFR 1.131 with the fee set forth in 37 CFR 1.17(p) on 9/5/06 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAS 

November 7, 2006

  
PATRICK MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600